

**BEFORE THE  
U.S. DEPARTMENT OF ENERGY  
Washington, D.C. 20585**

In the Matter of:

**YMGI Group LLC**  
(residential central air conditioners and  
heat pumps)

Case Number: 2011-SCE-1605

**NOTICE OF PROPOSED CIVIL PENALTY**

Date issued: October 11, 2012

Number of alleged violations: **5,957**

Maximum possible assessment: **\$1,191,400**

Proposed civil penalty: **\$142,540**

The Office of the General Counsel of the U.S. Department of Energy ("DOE") alleges that YMGI Group LLC ("YMGI") has violated certain provisions of the Energy Policy and Conservation Act, 42 U.S.C. § 6291 *et seq.* ("the Act"), and 10 C.F.R. Parts 429 and 430.

Specifically, DOE alleges:

**Failure to Certify**

1. YMGI manufactures and has manufactured, offered for sale, and/or sold at least sixteen basic models of through-the-wall<sup>1</sup> split-system central air conditioners, including models TTWC-12K-01B, TTWC-12K-31B, TTWC-18K-01B, TTWC-18K-31B, TTWC-24K-01B, TTWC-24K-31B, TTWC-30K-01B, TTWC-30K-31B, TTWC-12K-02B, TTWC-12K-32B, TTWC-18K-02B, TTWC-18K-32B, TTWC-24K-02B, TTWC-24K-32B, TTWC-30K-02B, and TTWC-30K-32B.
2. YMGI offered each of the basic models referenced in paragraph 1 for sale in the U.S. as early as February 6, 2008. Each of these basic models was distributed in the U.S. for at least 365 days.

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<sup>1</sup> Through-the-wall (TTW) central air conditioners and heat pumps with a rated cooling capacity of 30,000 Btu/hr or less manufactured before January 23, 2010, comprise a separate product class within the designation 'central air conditioners and heat pumps.' 10 CFR § 430.2, *Through-the-wall air conditioner and heat pump*. TTW units with a rated cooling capacity of 30,000 Btu/hr or less manufactured after January 23, 2010, fall under the definition of the space constrained product class. 10 C.F.R. § 430.2, *Space constrained product*.

3. Each of the basic models referenced in paragraph 1 is a “covered product” as defined in 42 U.S.C. § 6292(a)(3) and 10 C.F.R. § 430.2.
4. Each of the basic models referenced in paragraph 1 have been distributed in commerce without being certified in accordance with 10 C.F.R. §§ 429.11(b), 429.12(c)(2) and 429.16.<sup>2</sup>

Failure to Meet Minimum Federal Energy Efficiency Standards

5. YMGI has manufactured (including importation) and distributed in commerce in the United States since January 23, 2010, approximately 117 units of through-the-wall split-system central air conditioner basic model TTWC-18K-31B.
6. Through-the-wall split-system central air conditioner basic model TTWC-18K-31B is a “covered product” as defined in 42 U.S.C. § 6292(a)(3) and 10 C.F.R. § 430.2.
7. Pursuant to results of testing four units of YMGI space-constrained split-system central air conditioner basic model TTWC-18K-31B at Intertek Testing Services in Plano, Texas; this model operates at a seasonal energy efficiency ratio (SEER) of 8.3, approximately 31 percent lower than the 12 SEER standard, as required under 42 U.S.C. § 6295(d) and 10 C.F.R. § 430.32(c) for units of this basic model manufactured on or after January 23, 2010.

**The following information is provided in question and answer format to help explain your legal obligations and options.**

*What do I do now?*

DOE is offering a settlement of \$31,400 if you submit the signed compromise agreement and pay the fine within thirty (30) days of the date of an Adopting Order adopting the compromise agreement. As part of that settlement, you must properly certify all basic models available for sale in the United States within sixty (60) days of DOE’s issuance of the Adopting Order. If you do not submit the required certification documents within sixty (60) days following issuance of the Adopting Order, you must pay an additional \$200 per day per model for every day you do not certify each basic model.

You may settle the case for \$75,000 if you submit the signed compromise agreement between thirty-one (31) and sixty (60) days after the date of this notice and you pay the fine within thirty (30) days of the issuance of the Adopting Order. As part of that settlement, you must properly certify all basic models available for sale in the United States within sixty (60) days of DOE’s issuance of the Adopting Order. If you do not submit the required certification documents within sixty (60) days, you must pay an additional \$200 per day per model for every day you do not certify each model.

If you do not choose to settle the case, DOE may seek the maximum penalty authorized by law. You have other options as described below.

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<sup>2</sup> Citations given are for the regulations currently in effect. Citations for the regulations prior to the effective dates of DOE’s March 7, 2011 Certification, Compliance, and Enforcement final rule were 10 C.F.R. §§ 430.24 and 430.62.

*What are my other options?*

Within thirty (30) calendar days, you must select Option 1 or Option 2 below if you do *not* agree to DOE's settlement offer.

Option 1: You may elect to have DOE issue an order assessing a civil penalty. Failure to pay the assessed penalty within sixty (60) calendar days of the order assessing such penalty will result in referral of the case to a U.S. District Court for an order affirming the assessment of the civil penalty. The District Court has the authority to review the law and the facts de novo.

Option 2: You may elect to have DOE refer this matter to an Administrative Law Judge (ALJ) for an agency hearing on the record. Upon a finding of violation by the ALJ, DOE will issue an order assessing a civil penalty. This order may be appealed to the appropriate U.S. Court of Appeals.

*When must I respond?*

You must submit a signed compromise agreement within thirty (30) calendar days of the date of this notice to pay the lowest fine. If you do not wish to settle AND you wish to choose Option 1 as described above, you must notify DOE within thirty (30) calendar days of the date you received this notice of your selection of Option 1. Otherwise, if you do not settle the case, DOE will refer to the case to an ALJ as described in Option 2.

*How should I submit my response?*

To assure timely receipt, DOE strongly encourages you to submit your response by e-mail, fax, or an express delivery service. DOE accepts scanned images of signed documents (such as PDFs). Responses may be sent by any of the following methods:

By email to: david.case@hq.doe.gov

By fax to: (202) 586-3274

By mail to: David Case  
U.S. Department of Energy  
Office of the General Counsel GC-32  
1000 Independence Ave., SW  
Washington, DC 20585

*What happens if I fail to respond?*

If you fail to respond within thirty (30) calendar days after receiving this notice, or by the time of any extension granted by DOE, DOE will refer the case to an ALJ for a full administrative hearing.

*What should I include in my response?*

1) If you wish to accept DOE's settlement offer, you should submit the signed compromise agreement. If you do not wish to accept DOE's settlement offer, you should specify if you wish to elect Option 1; otherwise, DOE will proceed with Option 2, as described above.

2) Provide your Taxpayer Identification Number (TIN). The Debt Collection Improvement Act (DCIA) requires all Federal agencies to obtain the TIN in any case which may give rise to a debt to the government.

3) \*\*To avoid additional liability, you should also immediately complete the required testing and submit the required compliance statement and certification report for all basic models of covered products as required by 10 C.F.R. § 429.12.\*\*

*How did you calculate the maximum possible assessment?*

Failure to Certify

Federal law sets a maximum civil penalty for each day you fail to submit to DOE the required information for a covered product. By regulation, you must submit a certification report for each basic model. Therefore, your maximum penalty is calculated based on each day you distributed each basic model in commerce in the U.S. without having submitted a certification report. In the maximum penalty calculation in this notice, DOE assumes that each basic model has been in distribution in the U.S. for at least 365 days. DOE is not pursuing violations more than 1 year old at this time. DOE may pursue violations up to five (5) years old if the case goes to hearing. The maximum penalty is \$200 per day. 10 C.F.R. § 429.120.

Failure to Meet Minimum Federal Energy Efficiency Standards

Federal law sets a maximum civil penalty for each unit of a covered product that does not meet an applicable energy or water conservation standard that is distributed in commerce in the U.S. In the maximum penalty calculation in this notice, DOE has determined that YMGI has distributed approximately 117 units in the U.S. This number would be adjusted based on any additional information obtained if the case goes to hearing. The maximum penalty is \$200 per unit. 10 C.F.R. § 429.120.

Issued by:



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Timothy G. Lynch  
Deputy General Counsel for  
Litigation and Enforcement